

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CASA DE MARYLAND, INC., et al

Plaintiffs,

v.

Mayorkas, et al

Defendant.

Civil No. 20-2118-PX

STATUS REPORT

Pursuant to the Letter Order entered on May 3, 2021 (ECF No. 113), the Defendants hereby submit this Status Report in further support of Defendants’ motion to stay briefing on Plaintiffs’ Motion for Partial Summary Judgment (ECF No. 109).

Alejandro Mayorkas was sworn in as Secretary of Homeland Security by President Biden on February 2, 2021. On May 4, 2021, Secretary Mayorkas ratified the final rule titled Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications (“Timeline Repeal Rule”). A copy of the ratification is annexed hereto as Exhibit A. Ratification resolves Plaintiffs’ Homeland Security Act claim with respect to the Timeline Repeal Rule. *See Guedes v. ATF*, 920 F.3d 1, 13 (D.C. Cir. 2019) (“[A] properly appointed official’s ratification of an allegedly improper official’s prior action, rather than mooted a claim, resolves the claim on the merits by remedying the defect (if any) from the initial appointment” (internal quotations omitted))

Additionally, consistent with Executive Order 14,012, “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,”

86 Fed. Reg. 8,277 (Feb. 2, 2021), DHS plans to engage in rulemaking related to the two rules at issue in this case. Defendant submits that this DHS plan may moot or reshape the claims in this case.

The Administrative Procedure Act requires that the notice of proposed rulemaking (NPRM) be published in the *Federal Register* and contain, *inter alia* “either the terms or substance of the proposed rule or a description of the subjects and issues involved.” 5 U.S.C. § 553(b)(3). DHS currently projects publication of the NPRM in December of this year, but advises that inherent uncertainties in the regulatory analysis and review process, as well as resource availability, could affect the rulemaking timeline. Before a Final Rule can be promulgated, a period of notice-and-comment, and consideration of the public comments received, must occur. It is premature to project a date for a final rule, but given the December 2021 projection for publication of the NPRM, DHS anticipates that such a final rule is likely to be published no earlier than June 2022.

Respectfully submitted,

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